

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Assignee: TippingPoint Technologies, Inc.

Title: System and Method for Programming Network Nodes

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Examiner: Joseph E. Avellino Group Art Unit: 2143

Docket No.: 066101.0291 Customer No.: 33438

Austin, Texas
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**PRE-APPEAL BRIEF REQUEST FOR REVIEW
AND STATEMENT OF REASONS**

Sir:

Applicant requests review of the Final Rejection in the above-identified application. No amendments are being filed with the request. This request is being filed with a Notice of Appeal and a Petition for Extension of Time. The following sets forth a succinct, concise, and focused set of arguments for which the review is being requested.

CLAIM STATUS

Claims 34, 47 and 60-69 are pending. Claims 34, 47, and 60-69 were rejected in the Final Office Action under 35 U.S.C. §103(a) as being unpatentable over Publication No. 2002/0069274 to Tindal et al. (hereinafter "Tindal") in view of Publication No. 2002/0052941 to Patterson (hereinafter "Patterson").

REMARKS

Claims 34, 47 and 60-69 are pending. Claims 34, 47, and 60-69 were rejected in the Final Office Action under 35 U.S.C. §103(a) as being unpatentable over Publication No. 2002/0069274 to Tindal et al. (hereinafter “Tindal”) in view of Publication No. 2002/0052941 to Patterson (hereinafter “Patterson”). As discussed in greater detail below, Applicants respectfully traverse the rejection of the pending claims under 35 U.S.C. §103(a) and request that this rejection be removed.

As recited in independent claims 34 and 47, embodiments of Applicants’ invention provide a system and method for programming a packet-based network having a plurality of nodes for providing services to network subscribers. Independent claim 34 recites that the system comprises a service creation tool, a service creation control center, and at least one network node interfaced with the network. The node comprises a network processor that is operable to perform one or more packet processing behaviors. The service creation tool is operable to program a service definition package that defines a plurality of packet processing behaviors. The service control center is interfaced with the packet-based network and operable to accept the service definition package for deployment to at least one network node. Independent claim 47 recites limitations for a method of programming a packet-based network using a service-creation tool and service control center, as described above.

Tindal is directed to a system and method for configuration, management and monitoring of network resources such as routers, optical devices, and the like. (See for example, paragraphs 1, 11, and 17.) Applicants submit that those of skill in the art understand that service creation and configuration are directed to different aspects of providing network services. Service creation is the process of generating new functionality to provide a network service. Configuration, on the other hand, relates to changing the parameters for existing functionality.

Examiner states that Tindal discloses a service creation tool (administrator 110) that is operable to program a service definition package. Applicants submit that it does

not. Service creation is not discussed anywhere in Tindal. Furthermore, Tindal does not disclose a service definition package; therefore Tindal cannot disclose a service creation tool that is operable to program a service definition package. Examiner equates the creation of a configuration record, or the modification of a configuration record, to the programming of a service definition package. Modification of a configuration record is an act of configuration. It is not service creation, nor modification of a service definition package, as those terms are understood by those of skill in the art.

Patterson is devoid of any discussion of a service creation or a service definition package. Therefore, it fails to supply the teachings that are missing in Tindal.

For the reasons set forth hereinabove, Applicants respectfully submit that the rejection of claims 34, 47 and 60-69 under 35 U.S.C. §103(a) is improper and this rejection should be removed. Claims 34 and 47 are allowable over the art of record and the pending dependent claims are allowable, since they are dependent on an allowable base claim.

CONCLUSION

Applicant respectfully submits that all pending claims are in condition for allowance. Accordingly, Applicant requests that a Notice of Allowance be issued. Should any issues remain that might be subject to resolution through a telephone interview, the Examiner is requested to telephone the undersigned at 512-338-9100.

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Respectfully submitted,

/Gary W. Hamilton/

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